

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

MOREHOUSE ENTERPRISES, LLC)
d/b/a BRIDGE CITY ORDNANCE, et al.,)
)
Plaintiffs,)
)
v.)
)
BUREAU OF ALCOHOL, TOBACCO,)
FIREARMS AND EXPLOSIVES, et al.,)
)
Defendants.)
)
)
_____)

Case No. 3:22-cv-00116-PDW-ARS

**UNOPPOSED MOTION FOR STAY OF PROCEEDINGS PENDING
INTERLOCUTORY APPEAL**

On August 25 and 26, 2022, Plaintiffs filed notices of interlocutory appeal to the Eighth Circuit of this Court’s Order denying their motion for injunction. *See* ECF Nos. 87 & 91. Because resolution of the appeal of the preliminary injunction is likely to shape future proceedings in this Court, and to accordingly preserve the parties’ and the Court’s resources in the interim, Plaintiffs now move to stay district court proceedings pending the proceedings on appeal. Counsel for Plaintiffs consulted with counsel for Defendants to ascertain Defendants’ position on this motion, and counsel for Defendants represents that Defendants do not oppose the motion to stay, but in the event that this Court issues a decision in Plaintiffs’ favor on the pending motion to enjoin the Rule pending appeal, ECF No. 89, Defendants may request that the court lift the stay at that time.

A district court “has broad discretion to stay proceedings as an incident to its power to control its own docket.” *Clinton v. Jones*, 520 U.S. 681, 706 (1997). “[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the

causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. North American Co.*, 299 U.S. 248, 254 (1936). Here, a stay would substantially advance the cause of judicial economy. The issues before the Eighth Circuit are essentially identical to the issues still pending in this Court, and it would be inefficient to continue proceedings in this Court in the meantime while the matter is on appeal.

Parallel proceedings in this Court would result in unnecessary expenditure of the Court’s judicial resources and potentially result in interim rulings that would require subsequent modification or reconsideration in light of the appellate proceedings. *See Lovendahl v. Kroger Co., Inc.*, No. 1:21-CV-00350, 2022 WL 594806, at *2 (S.D. Ohio Feb. 28, 2022) (staying proceedings pending decisions on relevant legal issues in other litigation then before the Sixth Circuit); *Hawai‘i v. Trump*, 233 F. Supp. 3d 850, 855 (D. Haw. 2017) (“Because many of the . . . legal arguments . . . are presently before the Ninth Circuit, it makes little sense to expend the resources necessary for a full presentation of those same issues in this forum while awaiting guidance from the appellate court. The more efficient course is to await a pronouncement from the governing appellate bodies, at which point the bulk of the determinative issues may very well be settled in most material respects.”); *Washington v. Trump*, No. C17-0141JLR, 2017 WL 1050354, at *5 (W.D. Wash. Mar. 17, 2017) (similar).

A stay will not unduly burden the parties. The Eighth Circuit has already issued a briefing schedule for Plaintiffs’ motion for injunction pending appeal with Defendants’ response due by September 26, 2022, and has set the main briefing schedule to begin with Plaintiffs’ opening brief on October 20, 2022. Conducting further proceedings in this Court, on the other hand, will require the parties to incur potentially unnecessary and unrecoverable expenses.

Accordingly, Plaintiffs respectfully ask this Court to stay district court proceedings until appellate proceedings on this Court's denial of the preliminary injunction are fully concluded.

Respectfully submitted,

Date: September 23, 2022

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** Application for Admission Forthcoming*

CERTIFICATE OF SERVICE

I, Anthony R. Napolitano, hereby certify that I have on this day, caused the foregoing document or pleading to be filed with this Court's CM/ECF system, which caused a notice of the filing and a true and correct copy of the same to be delivered to all counsel of record.

Dated: September 23, 2022.

/s/ Anthony R. Napolitano
Anthony R. Napolitano